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WORKING PAPER

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MEETING DOCUMENT

From:	Presidency
To:	Delegations
Subject:	Enhanced co-operation in the area of FTT - Presidency steering note

Delegations will find attached a document in view of the Working Party on Tax Questions on 20 September 2019.

PRESIDENCY STEERING NOTE
ENHANCED COOPERATION IN THE AREA
OF FINANCIAL TRANSACTION TAX

1. The proposal for a Directive on a common system of financial transaction tax (FTT) was submitted by the Commission to the Council on 28 September 2011. Unanimous agreement by all Member States on that Commission proposal could not be attained.
2. On the basis of the request of eleven Member States, in accordance with the authorization of the Council of 22 January 2013¹, and consent of the European Parliament of 12 December 2012, the Commission on 14 February 2013 submitted a proposal for a Council Directive implementing enhanced cooperation in the area of financial transaction tax.
3. At this stage, 10 Member States continue to participate in the enhanced co-operation in the area of FTT: Austria, Belgium, France, Germany, Greece, Italy, Portugal, Slovakia, Slovenia and Spain (hereafter referred to as "participating Member States").
4. At the HLWP meeting of 7 May 2019, participating Member States indicated that they are discussing about an option of an FTT based on the French model of the tax and about the possible mutualisation of the revenues among the participating Member States as a contribution to the EU budget.
5. On 7 June 2019, the state of play of the ongoing negotiations on this dossier between the participating Member States was also set out in the note by the German delegation in doc. 10097/19. The note by the German delegation essentially covered the following aspects:
 - a) there appeared to be a growing consensus among Ministers of the FTT-ins that the FTT should be renegotiated in accordance with the Franco-German proposal;
 - b) there was also an understanding that FTT revenue will be distributed as part of a compensation mechanism between the states wishing to

¹ OJ L 22, 25.1.2013, p. 11.

introduce the FTT. The detailed design thereof was still the subject of ongoing discussions.

c) the objective was to discuss the issue in the ECOFIN in a timely manner in order to present the considerations from the FTT-ins to all Member States.

6. ECOFIN on 14 June 2019 was informed of the state of play of this file. These developments were summarized in the ECOFIN Report to the European Council on Tax Issues of June 2019 (see doc. doc. 10342/19, points 108 - 112).
7. Given these developments, and following an interest expressed by a number of delegations during bilateral contacts, the Presidency deems appropriate to exchange views on this file, on the basis of this note, in an inclusive format, among all Member States, at the Working Party level.
8. To date, the participating Member States have not presented any new draft text of the Directive on enhanced cooperation in the area of FTT. However, this should not prevent discussion at the level of Working Party, in inclusive format, in line with the practice followed since the beginning of these negotiations, where various aspects of FTT were discussed at the level of Working Party, in inclusive format.
9. It has already been clarified (also at Coreper and ECOFIN level in June 2019) that should an informal agreement among FTT-ins be reached, it would only be a preliminary step in the legislative process. If, at some point, a draft text of a Directive is tabled by the participating Member States, any decision (formal agreement) in the Council should be preceded by an inclusive and substantial debate among all EU MS (MS that do not participate in the enhanced co-operation on FTT would not vote on the Directive, but participate in the discussions). Such an inclusive debate among all EU MS has to take place following the required procedural steps (analysis by MS experts at Working Party level, preparatory debate by Coreper, agreement in Council).
10. It will also be important to ensure that a new version of an FTT fulfils the legal requirements (e. g. will not contradict the principles of EU law, will not undermine the internal market, will respect non-participating Member States' rights etc.). It is important to note that, in case of an agreement, further

procedural steps of the legislative text would have to be taken into account, which could have impact on a timeline (e.g. legal-linguistic revision of the text before it is formally adopted by the Council; eventual re-consultation of the European Parliament, etc.).

11. It is clear that the negotiations on the FTT are complicated and a large number of important considerations have to be taken into account in the discussions among the participating Member States, before any consensus is presented to all Member States for an inclusive discussion. Nevertheless, given that only a few months are left till the end of 2019, it would be useful to take stock and exchange the views at the WPTQ level on the following aspects of this dossier:

- a) *whether the participating Member States have any new updates as regards the ongoing discussions on the enhanced co-operation on the FTT;*
 - b) *what could be the envisaged legislative timeline;*
 - c) *whether non-participating Member States have any specific questions as regards this dossier.*
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